



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/730,625 Confirmation No. 4244  
 Appellants : LeRoy Johnson, et al.  
 Filed : 12/08/2003  
 Group Art Unit : 3636  
 Examiner : Stephen D. D'Adamo  
 Title : CHAIR AND SYNCHROTILT MECHANISM  
 Atty. Docket No. : LGPL.111051  
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4-13-06 *Nancy L. Morton*  
 Date Signature

**APPELLANTS' APPEAL BRIEF**

Dear Sir:

This is an Appeal from a final Office Action dated 11/15/2005, rejecting claims 1-5. These claims having been at least twice rejected. Appellants, having filed a Notice of Appeal (filed 02/15/2006) within the time period provided under § 1.134 accompanied by the fee set forth in 37 C.F.R. § 41.20(b)(1), do hereby submit this Brief prior to the two-month deadline of 04/15/2006 along with the fee set forth in §41.20(b)(2). The Commissioner is hereby authorized to charge any additional fee that may be due, or credit any overpayment, to Deposit Account No. 19-2112.

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Note: Neither an Evidence Appendix nor a Related Proceedings Appendix is included because both are inapplicable in this case.

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**I. REAL PARTY IN INTEREST**

The real party in interest is L & P Property Management, a corporation of the State of Delaware, United States of America.

**II. RELATED APPEALS AND INTERFERENCES**

None.

**III. STATUS OF CLAIMS**

Claims 1-5 are pending, and the rejection of each of those claims is being appealed.

**IV. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the final Office Action dated 11/15/2005.

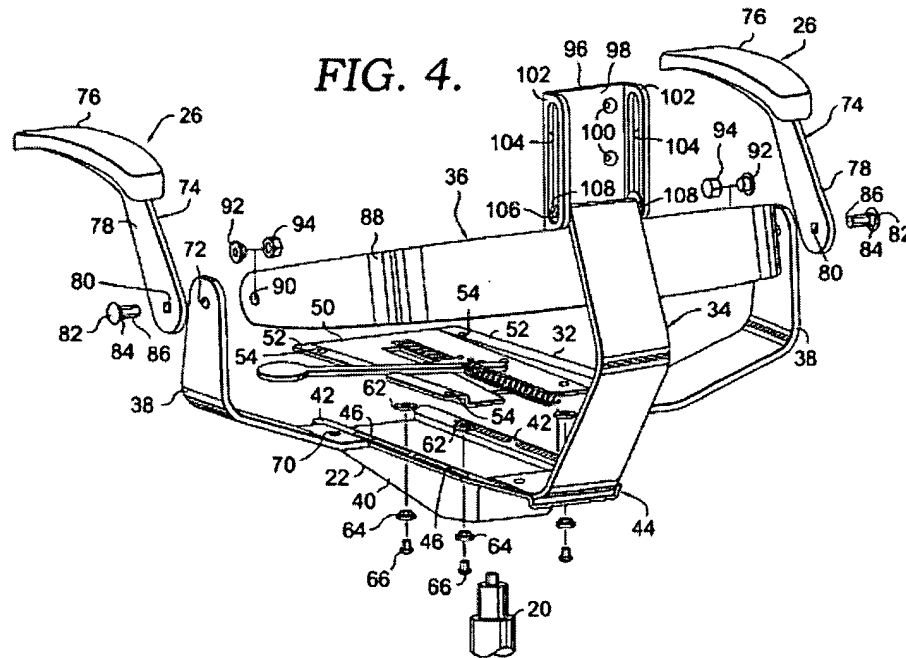
**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The instant Application includes one independent claim, claim 1. The present invention is defined by the claims, but summarily, the invention is directed to a back bracket that is used in conjunction with a chair mechanism. The back bracket contains a U-shaped member with a central section and a pair of ends. *See, e.g., Specification*, p. 9, lines 12-15. Each of the ends has a pivot point extending therethrough. *See, e.g., Specification*, p. 9, lines 15 and 16. The U-shaped member pivots only about the pivot points. *See, e.g., Specification*, p. 9, line 19 and p. 11, lines 19 and 20. The back bracket further includes a guide plate that is coupled to the central section of the U-shaped member. *See, e.g., Specification*, p. 10, lines 2 and 3. The guide plate has a mounting section that is adapted to be mounted to a chair, and contains a wall with at least one guide slot. *See, e.g., Specification*, p. 10, lines 9-11.

**Claim 1**

As shown in FIG. 4, reproduced below, claim 1 is directed to a back bracket 36 that is used in conjunction with a chair mechanism. The back bracket 36 contains a U-shaped

member 88 with a central section and a pair of ends. *See, e.g., Specification*, p. 9, lines 12-15. Each of the ends has a pivot point 90 extending therethrough. *See, e.g., Specification*, p. 9, lines 15 and 16. The U-shaped member 88 pivots only about the bolts 82 received within the pivot points 90. *See, e.g., Specification*, p. 9, line 19 and p. 11, lines 19 and 20. The back bracket 36 further includes a guide plate 96 that is coupled to the central section of the U-shaped member 88. *See, e.g., Specification*, p. 10, lines 2 and 3. The guide plate 96 has a mounting section 98 that is adapted to be mounted to a chair and contains a wall 102 with at least one guide slot 104. *See, e.g., Specification*, p. 10, lines 9-11.



## VI. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL

A) Claims 1-4, stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,405,188 issued to Hanson (the “Hanson patent”).

B) Claims 1-5, stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,523,898 issued to Ball et al. (the “Ball patent”).

C) Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being obvious over the De 3,834,614 issued to Engel (the “Engel patent”) and further in view of U.S. Patent No. 5,810,440 issued to Unwalla (the “Unwalla patent”).

Appellants respectfully traverse all these rejections.

## VII. ARGUMENT

### **A) The rejection of claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by the Hanson patent should be reversed because the Hanson patent fails to disclose each and every claim limitation.**

Initially, Appellant notes that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). If a single element in any of Appellant’s claims is not found in the Hanson patent, a rejection of that claim under §102 is improper. “[T]he exclusion of a claimed element from a prior art reference is enough to negate anticipation by that reference.” Atlas Powder Co. v. E.I. Du Pont de Nemours & Co., 750 F.2d 1569, 1574, 224 USPQ 409, 411 (Fed. Cir. 1984).

Claim 1 includes the limitation of a “guide plate having a mounting section adapted to be mounted to a chair and having a wall with at least one guide slot.”

The Hanson patent simply fails to disclose this limitation. Specifically, as seen below in FIGS. 2 and 3, the Hanson patent discloses a chair back 20 that is coupled to the chair by a pair of links 38. More specifically, the links 38 each are pivotally connected at one end 52 to the lower end of chair back 20 by a pin 54. Further, the other end 56 of each link 38 is connected by a pivot pin 37 to an arm 36 of the yoke 34. Thus, the Hanson patent discloses a pair of links 38 that couple the chair to the chair back 20. A pair of pins 54, 37 couple the links

38 to the chair back 20 and chair. However, the Hanson patent does not disclose how the pins 54, 37 are used to couple the ends 52, 56 to the chair back 20 and chair.

The Examiner states that “a guide plate or link 38 is coupled to the central section and has a mounting section at the lower end 56 to be mounted to a chair. The guide plate also has a pair of guide slots, one at the upper end 52 of the guide plate through a hole for pivoting pin 54 and the other at the lower end 56 for pivoting pin 37. Also the link has a pair of walls, one on each side of the link. The guide slots extend through both sides of the plate and walls.” (*see, e.g., Office Action dated 11/15/05, p. 2*). Appellant disagrees with Examiner’s assessment of the Hanson patent.

Specifically, Appellant disagrees with Examiner’s comparison of a link 38 with ends 52, 56 that receive pins 56, 37 to a guide plate having a wall with a slot contained therein. Specifically, the Hanson patent does not disclose what type of coupling arrangement occurs between the ends 52, 56 of the link and the pins 54, 37. However, even if the coupling arrangement is a hole, a link 38 with a pair of holes that receive pins 54, 37 is still not the same as a guide plate with a wall having a slot contained therein.

Thus, it is Appellant’s contention that the Hanson patent does not disclose a guide plate having a wall with at least one guide slot that is coupled to the central section of a U-shaped member as shown above in FIG. 4. In contrast, at best, the Hanson patent discloses a link 38 with a pair of holes that receive pins 54, 37 to couple the seat back 20 to the chair. Nevertheless, the Hanson patent does not disclose a guide plate having a wall with a guide slot, it simply discloses a link with a pair of holes at each end. Thus, the Hanson patent does not disclose a guide plate having a wall with at least one guide slot as recited in claim 1.

Therefore, the Hanson patent fails to disclose all of the limitations of Appellant's claim 1. As such, the rejection of claim 15 under 35 U.S.C. § 102(b) as being anticipated by the Hanson patent should be reversed because the Hanson patent does not contain each and every claim limitation.

Claims 2-4 depend directly or indirectly from claim 1. Accordingly, the 102(b) rejection of claims 2-4 are improper for at least the reasons stated above with respect to independent claim 1. As such, the rejection of claims 2-4 under 35 U.S.C. § 102(b) as being anticipated by the Hanson patent should be reversed because the Hanson patent does not contain each and every claim limitation.

Further, claim 1 also requires the guide plate to be coupled to the central section. The Hanson patent also does not disclose this limitation. Specifically, as shown in FIGS. 2 and 3 below, the links 38, which are not guides plates, are not coupled to a central section. In contrast, the links 38 are coupled to the chair back 20 proximate the side portion of the chair, not to a central section as required by claim 1. Thus, the Hanson patent does not disclose a guide plate that is coupled to the central section of the U-shaped member. At best, the Hanson patent discloses a pair of links, each of which are coupled to the chair back near the sides. Accordingly, the Hanson patent does not include the limitation of a guide plate that is coupled to the central section and, thus, does not include all of the limitations contained in claim 1.

Therefore, the Hanson patent fails to disclose all of the limitations of Appellant's claim 1. As such, the rejection of claim 15 under 35 U.S.C. § 102(b) as being anticipated by the Hanson patent should be reversed because the Hanson patent does not contain each and every claim limitation.

Claims 2-4 depend directly or indirectly from claim 1. Accordingly, the 102(b) rejection of claims 2-4 are improper for at least the reasons stated above with respect to independent claim 1. As such, the rejection of claims 2-4 under 35 U.S.C. § 102(b) as being anticipated by the Hanson patent should be reversed because the Hanson patent does not contain each and every claim limitation.

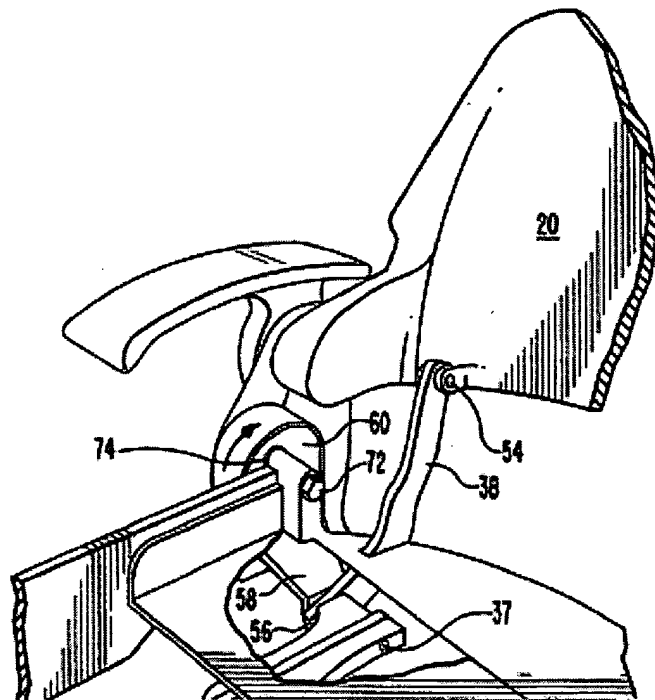


FIG. 2

**B) The rejection of claims 1-5 under 35 U.S.C. § 102(e) as being anticipated by the Ball patent should be reversed because the Ball patent fails to disclose each and every claim limitation.**

The Ball patent does not include this limitation. As seen in FIGS. 41-44, reproduced below, the Ball patent discloses a backrest frame 58 having a tubular frame member 111 and a rod extension assembly 112. The rod extension assembly 112 includes a knuckle 113 fixed to a center of the tubular frame member 111, a pair of rods 114 that extend upwardly from knuckle 113, and a top bracket 115 that engages a top of the rods 114. As seen in FIGS. 42 and 43, the knuckle 113 is an attachment means for a pair of rods 114 that engage the top bracket 115. Although it is not stated in the specification, it appears from the figures that the

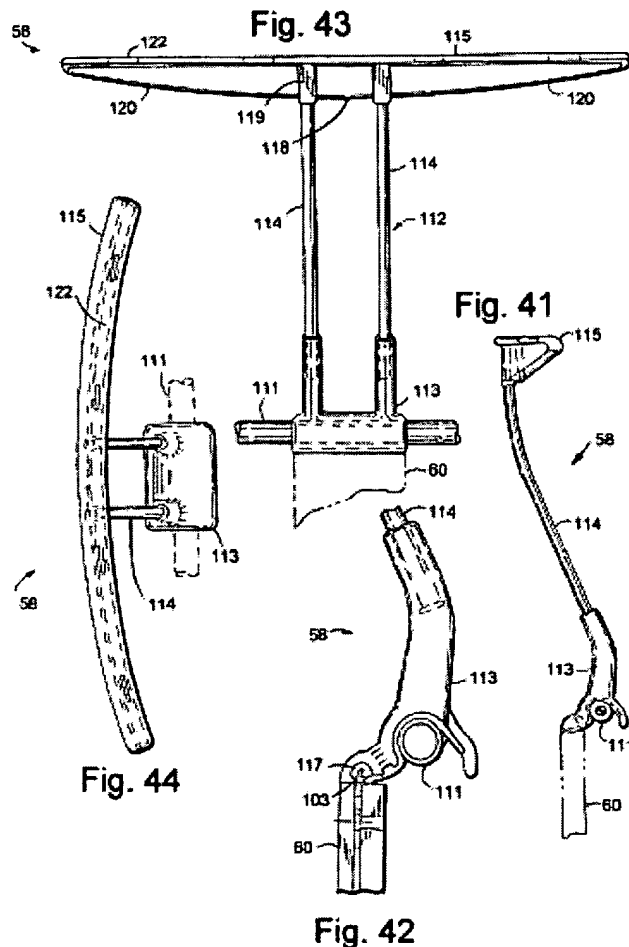
knuckle 113 contains a pair of hollow cylindrical mounting sections that receive the rods 114 which extend upwardly from the knuckle 113.

The Examiner states that “Ball further teaches of a guide plate 113 coupled to the central section. The guide plate has a mounting section that is adapted to be mounted to a chair having a pair of guide slots for fitting a pair of rods 114... the guide plate has a pair of walls, one on each side thereof. The guide slots extend through both sides of the plate and walls.” (*see, e.g., Office Action dated 11/15/05, p. 3*). Appellant respectfully disagrees with Examiner’s assessment of the Ball patent.

Specifically, Appellant respectfully disagrees with Examiner’s contention that the Ball patent discloses a guide plate having a wall with at least one guide slot. In contrast, the Ball patent discloses a hollow cylindrical mounting section that receives the rods. Specifically, the Ball patent discloses a knuckle 113 with a pair of hollow cylindrical mounting sections that receive rods 114. A knuckle 113 with a pair of cylindrical mounting sections that receive a pair of rods is not a guide plate with a wall having a slot contained therein. Specifically, the cylindrical mounting sections do not have a wall with a slot contained therein. In contrast, the cylindrical mounting sections form a hole that receives the rods. Thus, the Ball patent does not include the limitation of a guide plate having a wall with at least one guide slot and, thus, does not include all of the limitations contained in claim 1.

Therefore, the Ball patent fails to disclose all of the limitations of Appellant’s claim 1. As such, the rejection of claim 1-5 under 35 U.S.C. § 102(e) as being anticipated by the Ball patent should be reversed because the Ball patent does not contain each and every claim limitation.

Claims 2-5 depend directly or indirectly from claim 1. Accordingly, the 102(e) rejection of claims 2-5 are improper for at least the reasons stated above with respect to independent claim 1. As such, the rejection of claims 2-5 under 35 U.S.C. § 102(e) as being anticipated by the Ball patent should be reversed because the Ball patent does not contain each and every claim limitation.



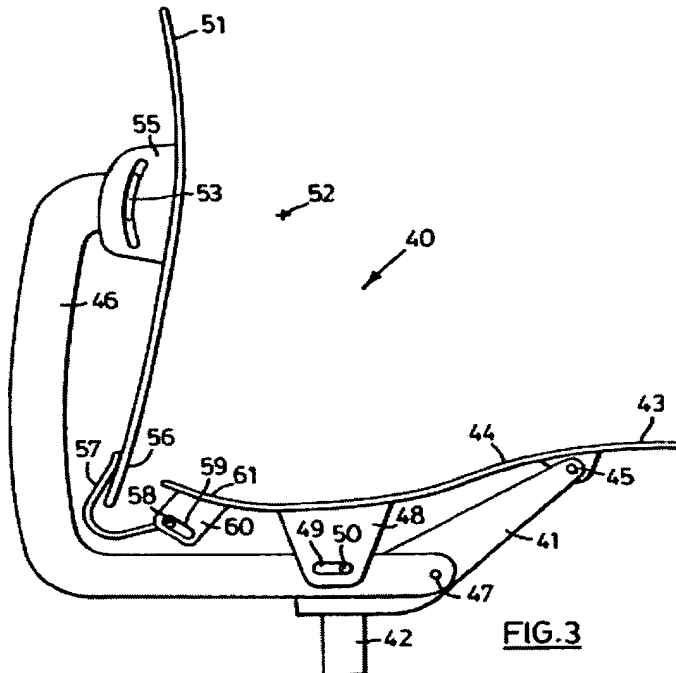
**C) The rejection of claims 1-4 under 35 U.S.C. § 103(a) as being obvious over the Engel patent and in view of the Unwalla patent should be reversed because the Examiner has failed to establish a *prima facie* case of obviousness.**

Initially, Appellants note that for a *prima facie* case of obviousness to be established, three criteria must be met: 1) there must be some suggestion or motivation to modify the reference or to combine reference teachings; 2) there must be a reasonable expectation of

success; and 3) the prior-art references must teach or suggest all the claim limitations. *See* MPEP § 2143. Moreover, the teaching or suggestion, and the reasonable expectation of success must be found in the prior art and not be based on applicants' disclosure. *See* MPEP § 706.02(j), § 2142, and § 2143. Appellants respectfully submit that a *prima facie* case of obviousness has not been established for claims 1-4. In particular, the Engel and Unwalla patents, either alone or in combination, fail to teach or suggest all the claim limitations for each of these claims.

Claim 1 discloses a “U-shaped member having a central section and a pair of ends, each end having a pivot point extending therethrough, wherein the U-shaped member is adapted to pivot only about the pivot points.” Neither the Engel nor Unwalla patents, either alone or in combination, teach or suggest all the claim limitations for claim 1.

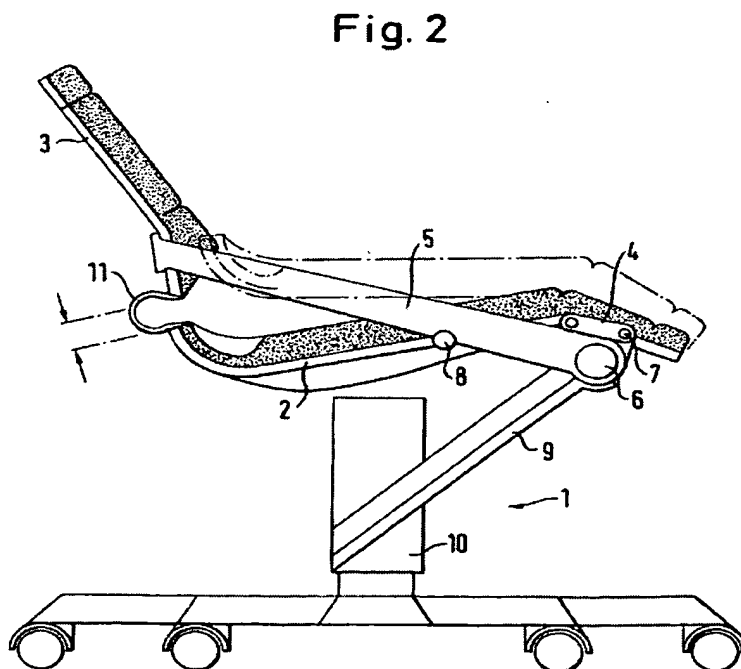
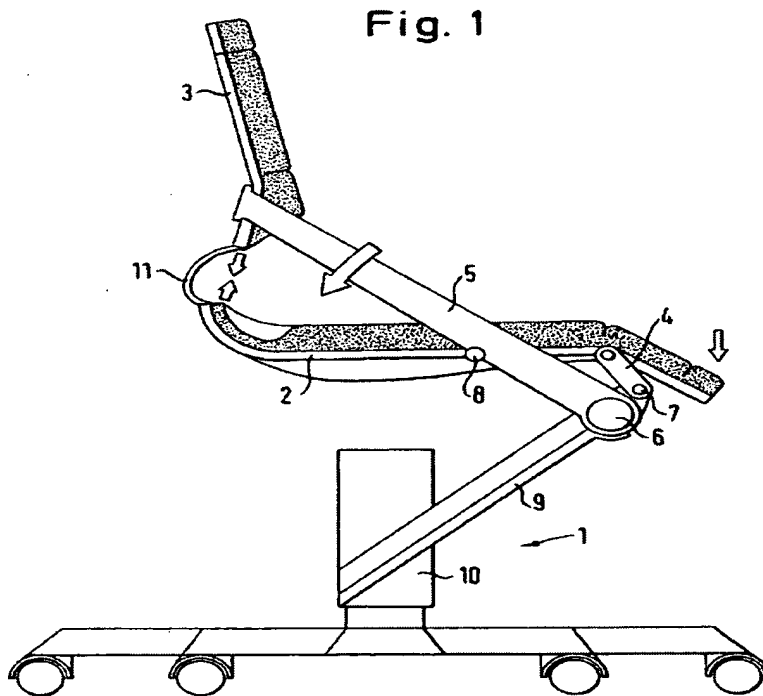
Specifically, the Unwalla patent does not disclose a U-shaped member having a pair of ends, each end having a pivot point extending therethrough, wherein the U-shaped member is adapted to pivot only about the pivot points. In contrast, as seen in FIG. 3, reproduced below, the Unwalla patent discloses a back bracket 46 that is coupled at one end to the chair back 51 via a mating segment 55 and is coupled at another end to the main bracket 41. As such, the Unwalla patent does not disclose the U-shaped member claim 1 limitation disclosed above.



Additionally, the Engel patent does not disclose a U-shaped member having a pair of ends, each having a pair of pivot points wherein the U-shaped member is adapted to pivot only about the pivot points. As seen in FIG. 1, the member 5 pivots about pivot point 6, but also pivots about pivot point 8. In other words, the Engel patent discloses a member that pivots about two sets of pivot points 6, 8. Specifically, FIG. 1 shows chair in the upright position while FIG. 2 shows the chair in the reclined position. As seen in both FIGS. 1 and 2, the support member 9 is fixed and does not move. However, when the chair is moved from the upright position to the reclined position the member 5 rotates about both pivot point 6 and pivot point 8.

In contrast, claim 1 requires the U-shaped member to pivot only about the pivot points located in the ends of the U-shaped member. Thus, the Engel patent does not disclose a U-shaped member with a pivot point in each end where the U-shaped member is adapted to pivot only about the pivot points in each end.

Accordingly, the Engel patent does not include the limitation of a U-shaped member with a pivot point in each end where the U-shaped member is adapted to pivot only about the pivot point.



Thus, neither the Engel nor Unwalla patents, either singly or in combination, disclose all of the limitations contained in claim 1. Therefore, the proposed combination of the Engel and Unwalla patents would not achieve the claimed invention. Because the Examiner has failed to establish a *prima facie* case of obviousness of claims 1-4 at least as described hereinabove, Appellants respectfully request that the Examiner's rejection of these claims be reversed.

Claims 2-4 depend directly or indirectly from claim 1. Accordingly, the 103(a) rejection of claims 2-4 are improper for at least the reasons stated above with respect to independent claim 1. As such, the rejection of claims 2-4 under 35 U.S.C. § 103(a) as being obvious is improper for at least the reasons stated above with respect to independent claim 1, and Appellants respectfully request that the Examiner's rejection of claims 2-4 be reversed.

Respectfully submitted,



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## **Claims Appendix**

1. A back bracket for use in a chair mechanism, comprising:  
  
a U-shaped member having a central section and a pair of ends, each end having a pivot point extending therethrough, wherein the U-shaped member is adapted to pivot only about the pivot points; and  
  
a guide plate coupled to the central section, the guide plate having a mounting section adapted to be mounted to a chair and having a wall with at least one guide slot.
2. The back bracket of claim 1, wherein the guide plate has a pair of walls, each including a guide slot.
3. The back bracket of claim 2, wherein the guide slots extend in a direction perpendicular to the U-shaped member.
4. The back bracket of claim 3, wherein the guide plate is fixedly coupled to the U-shaped member.
5. The back bracket of claim 4, further comprising:  
  
a back support bar having first and second ends, the support bar adapted to be coupled on the first end to a chair and on the second end to the guide slot of the guide plate.